

17330
Has further

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

[Protest of Nonresponsibility Determination]

FILE: B-201154

DATE: March 16, 1981

MATTER OF: Lee Roofing Co.

DIGEST:

1. Protest filed with GAO more than 10 working days after protester knew basis for rejection of its bid by contracting agency is untimely and not for consideration.
2. Protest against solicitation cancellation due to lack of funds is not significant issue within meaning of Bid Protest Procedures so as to justify consideration of untimely protest on merits.
3. Claim for bid preparation costs submitted in connection with untimely protest will not be considered.

Bids on General Services Administration (GSA) Public Buildings Service (Region 9) project No. RNV20527 (roofing work on the Federal Building in Reno, Nevada) were opened on August 26, 1980. The Lee Roofing Co. (Lee) submitted the low bid price. Lee protests the failure of the contracting officer to make award to Lee.

After bid opening, the contracting officer, by letter of August 27, requested that Lee verify its bid price due to the significant difference (approximately 16 percent) between the Lee price and the price of the second low bidder. Lee verified its price on August 29. Subsequently, the contracting officer requested data from Lee pertinent to that bidder's ability to perform the work. Lee was found to be nonresponsible, and because Lee was a small business concern this determination was forwarded to the Small Business Administration (SBA) on October 1 for the possible issuance of a certificate of competency. On October 8, however, prior to any decision by the SBA, the contracting officer

~~015966~~ 114593

canceled the solicitation pursuant to section 1-2.404-1(b)(2) of the Federal Procurement Regulations (1964 ed., amend. 121) in view of the October 7 GSA Agenda Staff determination that the procurement, amongst others, should be postponed due to a lack of funds. Bidders were notified of the cancellation by letter of October 15.

We have been advised that Lee is unsure of the exact date upon which it received this notification but that it knew of the determination by at least October 23. The Lee protest was received by our Office on November 7. Our Bid Protest Procedures provide at 4 C.F.R. § 20.2(b)(2) (1980) that bid protests shall be filed not later than 10 working days after the basis for protest is known or should have been known, whichever is earlier. Since the Lee protest was filed with our Office more than 10 working days after Lee knew of the basis of its protest, we must consider the protest as untimely filed and not for our consideration.

As regards whether the protest should be considered under the significant issue exception to our timeliness standards (4 C.F.R. § 20.2(c)), as contended, we have described a significant issue as one which involves a procurement principle of widespread interest (52 Comp. Gen. 20 (1972)) or which affects a broad class of procurements (Singer Company, 56 Comp. Gen. 172 (1976), 76-2 CPD 481). The exception is applied sparingly, Field Maintenance Services Corporation, B-185339, May 28, 1976, 76-1 CPD 350. We do not think that the issue in this case warrants invoking this exception to our timeliness standards.

Finally, Lee claims the cost of preparing its bid. Our Office will not consider such a claim where submitted in connection with an untimely protest. Planned Systems International, Inc., B-199848, August 18, 1980, 80-2 CPD 130.

Accordingly, the protest is dismissed and the claim denied.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel